

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

SAMUEL SURLES,

Plaintiff,

No. 07-CV-13555-DT

vs.

Hon. Gerald E. Rosen

DONALD ANDISON, et al.,

Defendants.

**ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND
RECOMMENDATION AND DISMISSING PLAINTIFF'S COMPLAINT**

At a session of said Court, held in
the U.S. Courthouse, Detroit, Michigan
on June 9, 2009

PRESENT: Honorable Gerald E. Rosen
Chief Judge, United States District Court

This Section 1983 prisoner civil rights matter having come before the Court on the May 20, 2009 Report and Recommendation of United States Magistrate Virginia M. Morgan recommending that the Court grant the motions for summary judgment filed by Defendants and deny Plaintiff's motions for partial summary judgment and for default judgment and that Plaintiffs' Complaint be dismissed in its entirety, because Plaintiff's claims are time-barred and subject to dismissal due to Plaintiff's failure to exhaust his administrative remedies; and Plaintiffs having timely filed objections to the Magistrate Judge's Report and Recommendation; and the Court having reviewed the Magistrate Judge's Report and Recommendation, Plaintiffs' Objections, and the Court's entire file of this action, and having

concluded that, for the reasons stated in the Report and Recommendation, Defendants' motions should be granted, Plaintiff's motions should be denied, and this case should, accordingly be dismissed in its entirety; and the Court being otherwise fully advised in the premises,

NOW, THEREFORE, IT IS HEREBY ORDERED that the Magistrate Judge's Report and Recommendation of May 20, 2009 [**Dkt. #61**] be, and hereby is, adopted by this Court.

IT IS FURTHER ORDERED that, for the reasons set forth in the Magistrate Judge's Report and Recommendation, Defendants' Motions for Summary Judgment [**Dkt. Nos. 36 and 55**] be, and hereby are, GRANTED, and Plaintiff's Motions for Partial Summary Judgment [**Dkt. # 48**] and for Default Judgment [**Dkt. # 49**] are DENIED. Accordingly,

IT IS FURTHER ORDERED that Plaintiff's Complaint is DISMISSED in its entirety with prejudice.

Based on the foregoing, this Court certifies that any appeal by Plaintiff would be frivolous and not in good faith. 28 U.S.C. § 1915(a).

s/Gerald E. Rosen
Chief Judge, United States District Court

Dated: June 9, 2009

CERTIFICATE OF SERVICE

I hereby certify that on June 9, 2009, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to the following: Christine M. Campbell, and

I hereby certify that I have mailed by United States Postal Service the paper to the following non-ECF participants:

Samuel Surles, #122260, Straits Correctional Facility, 4387 W. M-80, Kincheloe, MI 4978 .

s/Ruth A. Brissaud

Ruth A. Brissaud, Case Manager
(313) 234-5137